

Conference Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 332

## SENATE BILL 1088

AN ACT

AMENDING SECTION 12-283, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 2, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-289; AMENDING SECTION 25-319, ARIZONA REVISED STATUTES; REPEALING SECTION 25-320.01, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 25-323.01 AND 25-323.02; AMENDING SECTION 25-403, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-511.01; AMENDING TITLE 25, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3; REPEALING LAWS 2000, CHAPTER 312, SECTION 25; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 25-323.01 AND 25-323.02, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO DOMESTIC RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-283, Arizona Revised Statutes, is amended to  
3 read:

4 12-283. Powers and duties

5 A. The clerk, in addition to the other duties prescribed by law or  
6 rule of court, shall:

7 1. Attend each session of the court held in the county.

8 2. Keep a list of fees charged in actions.

9 3. Keep books of record required by law or rule of court.

10 B. The clerk may provide a consumer reporting agency, as defined in  
11 title 44, chapter 11, article 6, with a copy of:

12 1. A court order obligating a person to pay child support or spousal  
13 maintenance.

14 2. An order for assignment under section 25-323 or 25-504.

15 C. A clerk who provides the information in subsection B of this  
16 section to a consumer reporting agency shall also provide the information to  
17 the child support enforcement administration in the department of economic  
18 security.

19 D. The clerk may, in accordance with procedures established by the  
20 board of supervisors, appoint deputies, clerks and assistants necessary to  
21 conduct the affairs of the office of the clerk. The appointments shall be  
22 in writing and shall be filed in the office of the county recorder. The  
23 clerk shall be the appointing authority and shall administer and supervise  
24 all employees of the clerk's office.

25 E. The clerk shall submit an annual budget request, which shall be  
26 coordinated with the presiding judge, to the county board of  
27 supervisors. The clerk shall be responsible for the funds appropriated by  
28 the board to the clerk.

29 F. The clerk shall maintain and provide access to court records in  
30 accordance with applicable law or rule of court. The clerk shall keep a  
31 docket in the form and style as prescribed by the supreme court.

32 G. The clerk is responsible for the operations of the clerk's office.

33 H. THE CLERK MAY PROVIDE PROGRAMS TO ASSIST IN THE ENFORCEMENT OF  
34 CHILD SUPPORT, SPOUSAL MAINTENANCE AND PARENTING TIME AND IN THE  
35 ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT.

36 Sec. 2. Title 12, chapter 2, article 8, Arizona Revised Statutes, is  
37 amended by adding section 12-289, to read:

38 12-289. Spousal maintenance enforcement enhancement fund

39 A. THE SPOUSAL MAINTENANCE ENFORCEMENT ENHANCEMENT FUND IS ESTABLISHED  
40 FOR THE CLERK OF THE SUPERIOR COURT CONSISTING OF MONIES RECEIVED PURSUANT  
41 TO SUBSECTION B OF THIS SECTION. THE CLERK OF THE SUPERIOR COURT SHALL  
42 ADMINISTER THE FUND. SUBJECT TO THE APPROVAL OF THE BOARD OF SUPERVISORS AND  
43 IN COORDINATION WITH THE PRESIDING JUDGE, THE CLERK SHALL SPEND MONIES IN THE  
44 FUND TO ENHANCE ENFORCEMENT OF SPOUSAL MAINTENANCE ORDERS.

1 B. IN ADDITION TO THE FEES REQUIRED BY SECTION 12-284, SUBSECTION A,  
2 THE CLERK SHALL CHARGE AND COLLECT A SURCHARGE OF FIVE DOLLARS FOR EACH  
3 FILING OF A PETITION OR AN ANSWER FOR ANNULMENT, DISSOLUTION OF MARRIAGE OR  
4 LEGAL SEPARATION. THE CLERK SHALL USE THIS SURCHARGE ONLY FOR THE PURPOSES  
5 PRESCRIBED IN THIS SECTION.

6 Sec. 3. Section 25-319, Arizona Revised Statutes, is amended to read:

7 25-319. Maintenance; computation factors

8 A. In a proceeding for dissolution of marriage or legal separation,  
9 or a proceeding for maintenance following dissolution of the marriage by a  
10 court which THAT lacked personal jurisdiction over the absent spouse, the  
11 court may grant a maintenance order for either spouse for any of the  
12 following reasons if it finds that the spouse seeking maintenance:

13 1. Lacks sufficient property, including property apportioned to the  
14 spouse, to provide for ~~his or her~~ THAT SPOUSE'S reasonable needs.

15 2. Is unable to support ~~himself or herself~~ BE SELF-SUFFICIENT through  
16 appropriate employment or is the custodian of a child whose age or condition  
17 is such that the custodian should not be required to seek employment outside  
18 the home or lacks earning ability in the labor market adequate to support  
19 ~~himself or herself~~ BE SELF-SUFFICIENT.

20 3. Contributed to the educational opportunities of the other spouse.

21 4. Had a marriage of long duration and is of an age which THAT may  
22 preclude the possibility of gaining employment adequate to support ~~himself~~  
23 ~~or herself~~ BE SELF-SUFFICIENT.

24 B. The maintenance order shall be in ~~such amounts~~ AN AMOUNT and for  
25 ~~such periods~~ A PERIOD of time as the court deems just, without regard to  
26 marital misconduct, and after considering all relevant factors, including:

27 1. The standard of living established during the marriage.

28 2. The duration of the marriage.

29 3. The age, employment history, earning ability and physical and  
30 emotional condition of the spouse seeking maintenance.

31 4. The ability of the spouse from whom maintenance is sought to meet  
32 ~~his or her~~ THAT SPOUSE'S needs while meeting those of the spouse seeking  
33 maintenance.

34 5. The comparative financial resources of the spouses, including their  
35 comparative earning abilities in the labor market.

36 6. The contribution of the spouse seeking maintenance to the earning  
37 ability of the other spouse.

38 7. The extent to which the spouse seeking maintenance has reduced ~~his~~  
39 ~~or her~~ THAT SPOUSE'S income or career opportunities for the benefit of the  
40 other spouse.

41 8. The ability of both parties after the dissolution to contribute to  
42 the future educational costs of their mutual children.

43 9. The financial resources of the party seeking maintenance, including  
44 marital property apportioned to ~~such party~~ THAT SPOUSE, and ~~such party's~~ THAT  
45 SPOUSE'S ability to meet ~~his or her~~ THAT SPOUSE'S OWN needs independently.

1        10. The time necessary to acquire sufficient education or training to  
2 enable the party seeking maintenance to find appropriate employment and  
3 whether such education or training is readily available.

4        11. Excessive or abnormal expenditures, destruction, concealment or  
5 fraudulent disposition of community, joint tenancy and other property held  
6 in common.

7        12. THE COST FOR THE SPOUSE WHO IS SEEKING MAINTENANCE TO OBTAIN HEALTH  
8 INSURANCE AND THE REDUCTION IN THE COST OF HEALTH INSURANCE FOR THE SPOUSE  
9 FROM WHOM MAINTENANCE IS SOUGHT IF THE SPOUSE FROM WHOM MAINTENANCE IS SOUGHT  
10 IS ABLE TO CONVERT FAMILY HEALTH INSURANCE TO EMPLOYEE HEALTH INSURANCE AFTER  
11 THE MARRIAGE IS DISSOLVED.

12        C. If both parties agree, the maintenance order and a decree of  
13 dissolution of marriage or of legal separation may state that its maintenance  
14 terms shall not be modified.

15        D. Except as provided in subsection C of this section or section  
16 25-317, subsection G, the court shall maintain continuing jurisdiction over  
17 the issue of maintenance for the period of time maintenance is awarded.

18        Sec. 4. Repeal

19        Section 25-320.01, Arizona Revised Statutes, is repealed.

20        Sec. 5. Title 25, chapter 3, article 2, Arizona Revised Statutes, is  
21 amended by adding sections 25-323.01 and 25-323.02, to read:

22        25-323.01. Child support committee; membership; duties; report

23        A. THE CHILD SUPPORT COMMITTEE IS ESTABLISHED CONSISTING OF THE  
24 FOLLOWING MEMBERS:

25        1. THE DIRECTOR OF THE DEPARTMENT OF ECONOMIC SECURITY OR THE  
26 DIRECTOR'S DESIGNEE.

27        2. THE ASSISTANT DIRECTOR OF THE DIVISION OF CHILD SUPPORT ENFORCEMENT  
28 OF THE DEPARTMENT OF ECONOMIC SECURITY.

29        3. A DIVISION OR SECTION CHIEF FROM THE OFFICE OF THE ATTORNEY GENERAL  
30 WHO HAS KNOWLEDGE OF OR EXPERIENCE IN CHILD SUPPORT ENFORCEMENT AND RELATED  
31 ISSUES AND WHO IS APPOINTED BY THE ATTORNEY GENERAL.

32        4. THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE SUPREME COURT.

33        5. TWO PRESIDING JUDGES FROM THE DOMESTIC RELATIONS DIVISION OF THE  
34 SUPERIOR COURT WHO ARE APPOINTED BY THE CHIEF JUSTICE OF THE SUPREME COURT.  
35 ONE JUDGE SHALL BE FROM AN URBAN COUNTY AND ONE JUDGE SHALL BE FROM A RURAL  
36 COUNTY.

37        6. A TITLE IV-D COURT COMMISSIONER WHO IS APPOINTED BY THE CHIEF  
38 JUSTICE OF THE SUPREME COURT.

39        7. A CLERK OF THE SUPERIOR COURT WHO IS APPOINTED BY THE CHIEF JUSTICE  
40 OF THE SUPREME COURT.

41        8. TWO COUNTY ATTORNEYS WHO ARE APPOINTED BY THE DIRECTOR OF THE  
42 DEPARTMENT OF ECONOMIC SECURITY FROM A COUNTY THAT IS CURRENTLY CONTRACTING  
43 WITH THE STATE TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES. ONE COUNTY  
44 ATTORNEY SHALL BE FROM AN URBAN COUNTY AND ONE COUNTY ATTORNEY SHALL BE FROM  
45 A RURAL COUNTY.

1 9. AN EXECUTIVE ASSISTANT FROM THE OFFICE OF THE GOVERNOR WHO IS  
2 APPOINTED BY THE GOVERNOR.

3 10. ONE PERSON WHO IS KNOWLEDGEABLE IN CHILD SUPPORT ISSUES AND WHO IS  
4 A NONCUSTODIAL PARENT AND ONE PERSON WHO IS KNOWLEDGEABLE IN CHILD SUPPORT  
5 ISSUES AND WHO IS A CUSTODIAL PARENT. THE PRESIDENT OF THE SENATE SHALL  
6 APPOINT THESE MEMBERS.

7 11. ONE PERSON WHO IS KNOWLEDGEABLE IN CHILD SUPPORT ISSUES AND WHO IS  
8 A NONCUSTODIAL PARENT AND ONE PERSON WHO IS KNOWLEDGEABLE IN CHILD SUPPORT  
9 ISSUES AND WHO IS A CUSTODIAL PARENT. THE SPEAKER OF THE HOUSE OF  
10 REPRESENTATIVES SHALL APPOINT THESE MEMBERS.

11 12. ONE PARENT WHO IS KNOWLEDGEABLE IN CHILD SUPPORT ISSUES, WHO HAS  
12 JOINT CUSTODY AND WHO IS APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND  
13 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

14 13. ONE PERSON FROM THE EXECUTIVE COMMITTEE OF THE FAMILY LAW SECTION  
15 OF THE STATE BAR OF ARIZONA WHO IS APPOINTED BY THE CHIEF JUSTICE OF THE  
16 SUPREME COURT.

17 14. ONE PERSON FROM THE BUSINESS COMMUNITY WHO IS APPOINTED JOINTLY BY  
18 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

19 15. TWO MEMBERS OF THE SENATE FROM DIFFERENT POLITICAL PARTIES. THE  
20 PRESIDENT OF THE SENATE SHALL APPOINT THE MEMBERS AND DESIGNATE ONE OF THE  
21 MEMBERS AS THE COCHAIRPERSON.

22 16. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES FROM DIFFERENT  
23 POLITICAL PARTIES. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT  
24 THE MEMBERS AND DESIGNATE ONE OF THE MEMBERS AS THE COCHAIRPERSON.

25 B. THE COMMITTEE SHALL PREPARE AN ANNUAL WRITTEN REPORT ON ITS WORK,  
26 FINDINGS AND RECOMMENDATIONS REGARDING CHILD SUPPORT GUIDELINES, ENFORCEMENT  
27 AND RELATED ISSUES. THE COMMITTEE SHALL SUBMIT THIS REPORT TO THE GOVERNOR,  
28 THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND  
29 THE CHIEF JUSTICE OF THE SUPREME COURT ON OR BEFORE DECEMBER 31 OF EACH YEAR  
30 AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE  
31 DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

32 C. NONLEGISLATIVE MEMBERS OF THE COMMITTEE ARE NOT ELIGIBLE TO RECEIVE  
33 COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE  
34 38, CHAPTER 4, ARTICLE 2.

35 25-323.02. Domestic relations committee; membership; duties;  
36 report

37 A. THE DOMESTIC RELATIONS COMMITTEE IS ESTABLISHED CONSISTING OF THE  
38 FOLLOWING MEMBERS:

39 1. TWO NONCUSTODIAL PARENTS WHO ARE KNOWLEDGEABLE IN DOMESTIC  
40 RELATIONS ISSUES AND WHO ARE NOT JUDGES OR COMMISSIONERS. THE PRESIDENT OF  
41 THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT  
42 ONE OF THESE MEMBERS.

43 2. TWO CUSTODIAL PARENTS WHO ARE KNOWLEDGEABLE IN DOMESTIC RELATIONS  
44 ISSUES AND WHO ARE NOT JUDGES OR COMMISSIONERS. THE PRESIDENT OF THE SENATE

1 AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT ONE OF  
2 THESE MEMBERS.

3 3. TWO PARENTS WHO HAVE JOINT CUSTODY, WHO ARE KNOWLEDGEABLE IN  
4 DOMESTIC RELATIONS ISSUES AND WHO ARE NOT JUDGES OR COMMISSIONERS. THE  
5 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL  
6 EACH APPOINT ONE OF THESE MEMBERS.

7 4. TWO PARENTS WHO ARE KNOWLEDGEABLE IN DOMESTIC RELATIONS ISSUES, WHO  
8 ARE NOT JUDGES OR COMMISSIONERS AND WHO ARE APPOINTED BY THE GOVERNOR.

9 5. TWO ACTIVE OR RETIRED JUDGES OR COMMISSIONERS OR BOTH FROM THE  
10 DOMESTIC RELATIONS DEPARTMENT OF THE SUPERIOR COURT WHO ARE APPOINTED BY THE  
11 CHIEF JUSTICE OF THE SUPREME COURT. ONE OF THESE MEMBERS SHALL BE FROM AN  
12 URBAN COUNTY AND ONE MEMBER SHALL BE FROM A RURAL COUNTY.

13 6. ONE DOMESTIC RELATIONS ATTORNEY WHO IS APPOINTED BY THE GOVERNOR.

14 7. ONE CLERK OF THE SUPERIOR COURT WHO IS APPOINTED BY THE CHIEF  
15 JUSTICE OF THE SUPREME COURT.

16 8. A PROFESSIONAL DOMESTIC RELATIONS MEDIATOR WHO IS APPOINTED BY THE  
17 PRESIDENT OF THE SENATE.

18 9. A PSYCHOLOGIST EXPERIENCED IN PERFORMING CHILD CUSTODY EVALUATIONS  
19 WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

20 10. A DOMESTIC RELATIONS EDUCATOR WHO IS EXPERIENCED IN MATTERS  
21 RELATING TO PARENTING OR DIVORCE CLASSES AND WHO IS APPOINTED BY THE  
22 GOVERNOR.

23 11. A REPRESENTATIVE OF A STATEWIDE DOMESTIC VIOLENCE COALITION WHO IS  
24 APPOINTED BY THE PRESIDENT OF THE SENATE.

25 12. A REPRESENTATIVE OF A CONCILIATION COURT WHO IS APPOINTED BY THE  
26 CHIEF JUSTICE OF THE SUPREME COURT.

27 13. A MARRIAGE AND FAMILY THERAPIST WHO IS KNOWLEDGEABLE IN DOMESTIC  
28 RELATIONS ISSUES AND WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF  
29 REPRESENTATIVES.

30 14. A REPRESENTATIVE FROM A FAITH-BASED ORGANIZATION WHO IS  
31 KNOWLEDGEABLE IN DOMESTIC RELATIONS ISSUES AND WHO IS APPOINTED BY THE  
32 GOVERNOR.

33 15. AN ADMINISTRATIVE OFFICER OF THE SUPREME COURT WHO IS APPOINTED BY  
34 THE CHIEF JUSTICE OF THE SUPREME COURT.

35 16. A MEMBER OF A LAW ENFORCEMENT AGENCY IN THIS STATE WHO IS APPOINTED  
36 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

37 17. A MEMBER OF AN AGENCY THAT ADVOCATES FOR CHILDREN WHO IS APPOINTED  
38 BY THE PRESIDENT OF THE SENATE.

39 18. ONE MEMBER OF THE FAMILY LAW SECTION OF THE STATE BAR OF ARIZONA  
40 WHO IS APPOINTED BY THE CHIEF JUSTICE OF THE SUPREME COURT.

41 19. TWO MEMBERS OF THE SENATE WHO ARE MEMBERS OF DIFFERENT POLITICAL  
42 PARTIES. THE PRESIDENT OF THE SENATE SHALL APPOINT THESE MEMBERS AND SHALL  
43 DESIGNATE ONE OF THEM AS THE COCHAIRPERSON.

1        20. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE MEMBERS OF  
2 DIFFERENT POLITICAL PARTIES. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES  
3 SHALL APPOINT THESE MEMBERS AND DESIGNATE ONE OF THEM AS THE COCHAIRPERSON.

4        B. THE COMMITTEE SHALL PREPARE A STATEWIDE PLAN FOR AN INTEGRATED  
5 FAMILY COURT WITH COMPREHENSIVE SUBJECT MATTER JURISDICTION OVER ALL MATTERS  
6 INVOLVING THE FAMILY AND SUBMIT THIS PLAN TO THE GOVERNOR, THE PRESIDENT OF  
7 THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHIEF JUSTICE  
8 OF THE SUPREME COURT ON OR BEFORE DECEMBER 31, 2002.

9        C. THE COMMITTEE SHALL PREPARE AN ANNUAL WRITTEN REPORT REGARDING  
10 RECOMMENDED CHANGES TO THE DOMESTIC RELATIONS STATUTES, RULES AND PROCEDURES  
11 AND OTHER RELATED ISSUES DESIGNED TO LEAD TO A REFORM OF THE STATE'S DOMESTIC  
12 RELATIONS STATUTES. THE COMMITTEE SHALL SUBMIT THIS REPORT TO THE GOVERNOR,  
13 THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND  
14 THE CHIEF JUSTICE OF THE SUPREME COURT ON OR BEFORE DECEMBER 31 OF EACH YEAR  
15 AND SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE  
16 DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

17        D. NONLEGISLATIVE MEMBERS OF THE COMMITTEE ARE NOT ELIGIBLE TO RECEIVE  
18 COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE  
19 38, CHAPTER 4, ARTICLE 2.

20        Sec. 6. Section 25-403, Arizona Revised Statutes, is amended to read:

21        25-403. Custody; drug offenses; best interests of child; joint  
22                    custody; domestic violence; modification of decree;  
23                    fees

24        A. The court shall determine custody, either originally or on petition  
25 for modification, in accordance with the best interests of the child. The  
26 court shall consider all relevant factors, including:

- 27        1. The wishes of the child's parent or parents as to custody.  
28        2. The wishes of the child as to the custodian.  
29        3. The interaction and interrelationship of the child with the child's  
30 parent or parents, the child's siblings and any other person who may  
31 significantly affect the child's best interest.  
32        4. The child's adjustment to home, school and community.  
33        5. The mental and physical health of all individuals involved.  
34        6. Which parent is more likely to allow the child frequent and  
35 meaningful continuing contact with the other parent.  
36        7. If WHETHER one parent, both parents or neither parent has provided  
37 primary care of the child.

38        8. The nature and extent of coercion or duress used by a parent in  
39 obtaining an agreement regarding custody.

40        9. Whether a parent has complied with chapter 3, article 5 of this  
41 title.

42        B. In awarding child custody, the court may order sole custody or  
43 joint custody. This section does not create a presumption in favor of one  
44 custody arrangement over another. The court in determining custody shall not  
45 prefer a parent as custodian because of that parent's sex.

1 C. The court may issue an order for joint custody of a child if both  
2 parents agree and submit a written parenting plan and the court finds such  
3 an order is in the best interests of the child. The court may order joint  
4 legal custody without ordering joint physical custody.

5 D. The court may issue an order for joint custody over the objection  
6 of one of the parents if the court makes specific written findings of why the  
7 order is in the child's best interests. In determining whether joint custody  
8 is in the child's best interests, the court shall consider the factors  
9 prescribed in subsection A of this section and all of the following:

10 1. The agreement or lack of an agreement by the parents regarding  
11 joint custody.

12 2. WHETHER a parent's lack of agreement is unreasonable or is  
13 influenced by an issue not related to the best interests of the child.

14 3. The past, present and future abilities of the parents to cooperate  
15 in decision-making about the child to the extent required by the order of  
16 joint custody.

17 4. Whether the joint custody arrangement is logistically possible.

18 E. Notwithstanding subsection N of this section, joint custody shall  
19 not be awarded if the court makes a finding of the existence of significant  
20 domestic violence pursuant to section 13-3601 or if the court finds by a  
21 preponderance of the evidence that there has been a significant history of  
22 domestic violence.

23 F. Before an award is made granting joint custody, the parents shall  
24 submit a proposed parenting plan that includes at least the following:

25 1. Each parent's rights and responsibilities for the personal care of  
26 the child and for decisions in areas such as education, health care and  
27 religious training.

28 2. A schedule of the physical residence of the child, including  
29 holidays and school vacations.

30 3. A procedure by which proposed changes, disputes and alleged  
31 breaches may be mediated or resolved, which may include the use of  
32 conciliation services or private counseling.

33 4. A procedure for periodic review of the plan's terms by the parents.

34 5. A statement that the parties understand that joint custody does not  
35 necessarily mean equal parenting time.

36 G. If the parents are unable to agree on any element to be included  
37 in a parenting plan, the court shall determine that element. The court may  
38 determine other factors that are necessary to promote and protect the  
39 emotional and physical health of the child.

40 H. Unless otherwise provided by court order or law, on reasonable  
41 request both parents are entitled to have equal access to documents and other  
42 information concerning the child's education and physical, mental, moral and  
43 emotional health including medical, school, police, court and other records  
44 directly from the custodian of the records or from the other parent. A  
45 person who does not comply with a reasonable request shall reimburse the



1 requesting parent for court costs and attorney fees incurred by that parent  
2 to force compliance with this subsection. A parent who attempts to restrict  
3 the release of documents or information by the custodian under this  
4 subsection without a prior court order is subject to appropriate legal  
5 sanctions.

6 I. The court may specify one parent as the primary caretaker of the  
7 child and one home as the primary home of the child for the purposes of  
8 defining eligibility for public assistance. This finding does not diminish  
9 the rights of either parent and does not create a presumption for or against  
10 either parent in a proceeding for the modification of a custody order.

11 J. In a contested custody case, the court shall make specific findings  
12 on the record about all relevant factors and the reasons for which the  
13 decision is in the best interests of the child.

14 K. If the court determines that a parent has been convicted of any  
15 drug offense under title 13, chapter 34 or any violation of section 28-1381,  
16 28-1382 or 28-1383 within twelve months before the petition or the request  
17 for custody is filed, there is a rebuttable presumption that sole or joint  
18 custody by that parent is not in the child's best interests. In making this  
19 determination the court shall state its:

20 1. Findings of fact that support its determination that the parent was  
21 convicted of the offense.

22 2. Findings that the custody or parenting time arrangement ordered by  
23 the court appropriately protects the child.

24 L. To determine if the person has rebutted the presumption established  
25 under subsection K of this section, at a minimum the court shall consider the  
26 following evidence:

27 1. The absence of any conviction of any other drug offense during the  
28 previous five years.

29 2. Results of random drug testing for a six month period that indicate  
30 that the person is not using drugs as proscribed by title 13, chapter 34.

31 M. The court shall consider evidence of domestic violence as being  
32 contrary to the best interests of the child. The court shall consider the  
33 safety and well-being of the child and of the victim of the act of domestic  
34 violence to be of primary importance. The court shall consider a  
35 perpetrator's history of causing or threatening to cause physical harm to  
36 another person.

37 N. If the court determines that a parent who is seeking custody has  
38 committed an act of domestic violence against the other parent, there is a  
39 rebuttable presumption that an award of custody to the parent who committed  
40 the act of domestic violence is contrary to the child's best interests. This  
41 presumption does not apply if both parents have committed an act of domestic  
42 violence. For the purposes of this subsection, a person commits an act of  
43 domestic violence if that person does any of the following:

44 1. Intentionally, knowingly or recklessly causes or attempts to cause  
45 sexual assault or serious physical injury.

1           2. Places a person in reasonable apprehension of imminent serious  
2 physical injury to any person.

3           3. Engages in a pattern of behavior for which a court may issue an ex  
4 parte order to protect the other parent who is seeking child custody or to  
5 protect the child and the child's siblings.

6           0. To determine if the parent has rebutted the presumption the court  
7 shall consider all of the following:

8           1. Whether the parent has demonstrated that being awarded sole custody  
9 or joint physical or legal custody is in the child's best interests.

10          2. Whether the parent has successfully completed a batterer's  
11 prevention program.

12          3. Whether the parent has successfully completed a program of alcohol  
13 or drug abuse counseling, if the court determines that counseling is  
14 appropriate.

15          4. Whether the parent has successfully completed a parenting class,  
16 if the court determines that a parenting class is appropriate.

17          5. If the parent is on probation, parole or community supervision,  
18 whether the parent is restrained by a protective order that was granted after  
19 a hearing.

20          6. Whether the parent has committed any further acts of domestic  
21 violence.

22          P. If the court finds that a parent has committed an act of domestic  
23 violence, that parent has the burden of proving to the court's satisfaction  
24 that parenting time will not endanger the child or significantly impair the  
25 child's emotional development. If the parent meets this burden to the  
26 court's satisfaction, the court shall place conditions on parenting time that  
27 best protect the child and the other parent from further harm. The court  
28 may:

29          1. Order that an exchange of the child must occur in a protected  
30 setting as specified by the court.

31          2. Order that an agency specified by the court must supervise  
32 parenting time. If the court allows a family or household member to  
33 supervise parenting time, the court shall establish conditions that this  
34 person must follow during parenting time.

35          3. Order the parent who committed the act of domestic violence to  
36 attend and complete, to the court's satisfaction, a program of intervention  
37 for perpetrators of domestic violence and any other counseling the court  
38 orders.

39          4. Order the parent who committed the act of domestic violence to  
40 abstain from possessing or consuming alcohol or controlled substances during  
41 parenting time and for twenty-four hours before parenting time.

42          5. Order the parent who committed the act of domestic violence to pay  
43 a fee to the court to defray the costs of supervised parenting time.

44          6. Prohibit overnight parenting time.

1           7. Require a bond from the parent who committed the act of domestic  
2 violence for the child's safe return.

3           8. Order that the address of the child and the other parent remain  
4 confidential.

5           9. Impose any other condition that the court determines is necessary  
6 to protect the child, the other parent and any other family or household  
7 member.

8           Q. In determining whether the absence or relocation of a parent shall  
9 be weighed against that parent in determining custody or parenting time, the  
10 court may consider whether the absence or relocation was caused by an act of  
11 domestic violence by the other parent.

12           R. The court shall not order joint counseling between a victim and the  
13 perpetrator of domestic violence. The court may refer a victim to  
14 appropriate counseling and shall provide a victim with written information  
15 about available community resources related to domestic violence.

16           S. To determine if a person has committed an act of domestic violence  
17 the court, subject to the rules of evidence, shall consider all relevant  
18 factors including the following:

19           1. Findings from another court of competent jurisdiction.

20           2. Police reports.

21           3. Medical reports.

22           4. Child protective services records.

23           5. Domestic violence shelter records.

24           6. School records.

25           7. Witness testimony.

26           T. A person shall not make a motion to modify a custody decree earlier  
27 than one year after its date, unless the court permits it to be made on the  
28 basis of affidavits that there is reason to believe the child's present  
29 environment may seriously endanger the child's physical, mental, moral or  
30 emotional health. At any time after a joint custody order is entered, a  
31 parent may petition the court for modification of the order on the basis of  
32 evidence that domestic violence pursuant to section 13-1201 or 13-1204,  
33 spousal abuse or child abuse occurred since the entry of the joint custody  
34 order. Six months after a joint custody order is entered, a parent may  
35 petition the court for modification of the order based on the failure of the  
36 other parent to comply with the provisions of the order. A motion or  
37 petition to modify a custody order shall meet the requirements of sections  
38 25-408 and 25-411. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION U OF THIS  
39 SECTION, IF A CUSTODIAL PARENT IS A MEMBER OF THE UNITED STATES ARMED FORCES,  
40 THE COURT SHALL CONSIDER THE TERMS OF THAT PARENT'S MILITARY FAMILY CARE PLAN  
41 TO DETERMINE WHAT IS IN THE CHILD'S BEST INTEREST DURING THE CUSTODIAL  
42 PARENT'S MILITARY DEPLOYMENT.

43           U. FOR THE PURPOSES OF A MOTION TO MODIFY A CUSTODY DECREE, THE  
44 MILITARY DEPLOYMENT OF A CUSTODIAL PARENT WHO IS A MEMBER OF THE UNITED  
45 STATES ARMED FORCES IS NOT A CHANGE IN CIRCUMSTANCES THAT MATERIALLY AFFECTS

1 THE WELFARE OF THE CHILD IF THE CUSTODIAL PARENT HAS FILED A MILITARY FAMILY  
2 CARE PLAN WITH THE COURT AT A PREVIOUS CUSTODY PROCEEDING AND IF THE MILITARY  
3 DEPLOYMENT IS LESS THAN SIX MONTHS.

4 ~~U.~~ V. The court shall assess attorney fees and costs against a party  
5 seeking modification if the court finds that the modification action is  
6 vexatious and constitutes harassment.

7 ~~V.~~ W. In a proceeding regarding sole custody or joint custody, either  
8 party may request attorney fees, costs and expert witness fees to enable the  
9 party with insufficient resources to obtain adequate legal representation and  
10 to prepare evidence for the hearing. If the court finds there is a financial  
11 disparity between the parties, the court may order payment of reasonable  
12 fees, expenses and costs to allow adequate preparation.

13 ~~W.~~ X. For any custody order entered under this section, the court  
14 shall determine an amount of child support in accordance with section 25-320  
15 and guidelines established pursuant to that section. An award of joint  
16 custody does not diminish the responsibility of either parent to provide for  
17 the support of the child.

18 ~~X.~~ Y. The court shall not request or order the services of the  
19 division of children and family services in the department of economic  
20 security unless it believes that a child may be the victim of child abuse or  
21 neglect as defined in section 8-201.

22 Sec. 7. Title 25, chapter 5, article 1, Arizona Revised Statutes, is  
23 amended by adding section 25-511.01, to read:

24 25-511.01. Nonpayment of spousal maintenance; violation;  
25 classification

26 A PERSON WHO IS OBLIGATED TO PAY SPOUSAL MAINTENANCE PURSUANT TO AN  
27 ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION IS GUILTY OF A CLASS 1  
28 MISDEMEANOR IF THE PERSON HAS NOTICE OF THE ORDER AND WILFULLY AND WITHOUT  
29 LAWFUL EXCUSE FAILS TO COMPLY WITH THE TERMS OF THAT ORDER.

30 Sec. 8. Title 25, chapter 5, Arizona Revised Statutes, is amended by  
31 adding article 3, to read:

32 ARTICLE 3. SPOUSAL MAINTENANCE ENFORCEMENT

33 25-551. Clerk of the court

34 THE CLERK OF THE COURT MAY PROVIDE SERVICES TO ASSIST A PERSON TO  
35 COLLECT SPOUSAL MAINTENANCE. THESE SERVICES MAY INCLUDE PROVIDING  
36 INFORMATION REGARDING COLLECTION AND ENFORCEMENT PROCEDURES, PROVIDING  
37 ASSISTANCE IN THE PREPARATION OF FORMS AND INSTRUCTIONS NECESSARY TO INITIATE  
38 AN ENFORCEMENT ACTION AND PROVIDING INFORMATION AND REFERRALS REGARDING  
39 SERVICES RELATED TO SPOUSAL MAINTENANCE AND DEBT COLLECTION AND ENFORCEMENT.

40 25-552. Jurisdiction; priority of action

41 A. THE SUPERIOR COURT HAS ORIGINAL JURISDICTION IN PROCEEDINGS BROUGHT  
42 BY THIS STATE OR A PERSON WHO IS OWED SPOUSAL MAINTENANCE TO ESTABLISH,  
43 ENFORCE OR MODIFY A SPOUSAL MAINTENANCE OBLIGATION.

44 B. NOTWITHSTANDING ANY OTHER STATUTE, ACTIONS PURSUANT TO THIS ARTICLE  
45 HAVE PRIORITY OVER ALL OTHER CIVIL ACTIONS EXCEPT FOR CHILD SUPPORT ACTIONS

1 PURSUANT TO SECTION 25-514 OR JUDICIAL AUTHORIZATION PURSUANT TO SECTION  
2 36-2152.

3 25-553. Request for arrearages; deadline

4 A. THE PERSON TO WHOM THE SPOUSAL MAINTENANCE OBLIGATION IS OWED MAY  
5 FILE A REQUEST FOR JUDGMENT FOR SPOUSAL MAINTENANCE ARREARAGES NOT LATER THAN  
6 THREE YEARS AFTER THE DATE THE SPOUSAL MAINTENANCE ORDER TERMINATES. IN THAT  
7 PROCEEDING THERE IS NO BAR TO ESTABLISHING A MONEY JUDGMENT FOR ALL OF THE  
8 UNPAID SPOUSAL MAINTENANCE ARREARAGES.

9 B. NOTWITHSTANDING ANY OTHER LAW, FORMAL WRITTEN JUDGMENTS FOR SPOUSAL  
10 MAINTENANCE AND FOR ASSOCIATED COSTS AND ATTORNEY FEES ARE EXEMPT FROM  
11 RENEWAL AND ARE ENFORCEABLE UNTIL PAID IN FULL.

12 C. IF TERMINATION OF THE SPOUSAL MAINTENANCE ORDER IS DISPUTED, THIS  
13 SECTION SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS INTENTION OF DIMINISHING  
14 THE LIMITATION ON THE COLLECTION OF SPOUSAL MAINTENANCE ARREARAGES.

15 Sec. 9. Repeal

16 Laws 2000, chapter 312, section 25 is repealed.

17 Sec. 10. Delayed repeal

18 Sections 25-323.01 and 25-323.02, Arizona Revised Statutes, as added  
19 by this act, are repealed from and after December 31, 2007.

APPROVED BY THE GOVERNOR JUNE 4, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 4, 2002.

Passed the House April 25, 2002,

by the following vote: 53 Ayes,

1 Nays, 6 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 4, 2002,

by the following vote: 18 Ayes,

8 Nays, 4 Not Voting

[Signature]  
President of the Senate

Norma Lowe  
Asst. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

       day of       , 20  ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20  ,

at        o'clock        M.

        
Governor of Arizona

S.B. 1088

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this        day of       , 20  ,

at        o'clock        M.

        
Secretary of State

HOUSE FINAL PASSAGE  
as per Joint Conference

Passed the House May 20, 2002,

by the following vote: 40 Ayes,

18 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

SENATE FINAL PASSAGE  
as per Joint Conference

Passed the Senate May 16, 2002,

by the following vote: 24 Ayes,

4 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 21 day of May, 2002,

at 10:21 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 4<sup>th</sup> day of

June, 2002,

at 11:05 o'clock A M.

[Signature]  
Governor of Arizona

S.B. 1088

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2002

at 5:31 o'clock P. M.

[Signature]  
Secretary of State